

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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**IN RE WESTERN STATES WHOLESALE
NATURAL GAS ANTITRUST
LITIGATION.**

MDL Docket No. 1566

Base Case No. 2:03-cv-01431-RCJ-PAL

ORDER

THIS DOCUMENT RELATES TO:
ALL ACTIONS

12 This matter is before the court on Defendants CMS Energy Corporation, Cantera Gas
13 Company, and CMS Marketing Services and Trading Company (“CMS”) failure to respond to
14 the court’s Order (ECF No. 2378) denying the Wisconsin Plaintiffs’ Sealed Motion to Seal (ECF
15 No. 2282)¹ without prejudice and instructing the designating parties to file a memorandum of
16 points and authorities and any supporting declaration or affidavit to make a particularized
17 showing as to why certain documents should remain under seal. The Wisconsin Plaintiffs sought
18 leave to file under seal because counsel for CMS designated certain documents as confidential.
19 The documents were referenced as Exhibits A and B (ECF Nos. 2282-1, 2282-2), and are
20 discussed in the Declaration of Ryan M. Billings (ECF No. 2281) filed in support of the
21 Wisconsin Plaintiffs’ Motion to Compel (ECF No. 2180). The court instructed the designating
22 parties to make a particularized showing on or before May 13, 2016. *See* Order (ECF No. 2378).

¹ The court notes that the Motion to Seal (ECF No. 2282) was erroneously filed under seal when *the motion itself* did not contain any confidential information—only the attached exhibits presented confidential information. If a motion to seal itself contains confidential information, the moving party may file a *redacted* motion to seal on the public docket and an *unredacted* motion under seal with the sealed exhibits. However, this practice is disfavored as litigants should attempt to meet their burden under *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006) without specific references to confidential information. For additional direction, the parties should review the December 24, 2015 Order (ECF No. 2257) addressing sealed filings and the CM/ECF filing procedures available on the court’s website, or contact the CM/ECF Helpdesk at (702) 464-5555.

1 However, no response was filed and the deadline to do so has now expired. The parties were
2 cautioned that if they failed to timely comply with the Order, the Clerk of the Court would be
3 directed to unseal the documents to make them available on the public docket.

4 Accordingly,

5 **IT IS ORDERED:** the Clerk of the Court shall UNSEAL the Motion to Seal (ECF
6 No. 2282) and its Exhibits (ECF Nos. 2282-1, 2282-2).

7 Dated this 13th day of September, 2016.

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9 PEGGY A. TEEN
10 UNITED STATES MAGISTRATE JUDGE
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